

## Department of Health and Human Services

315.406

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AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486cc).

SOURCE: 49 FR 13979, Apr. 9, 1984, unless otherwise noted.

### Subpart 315.1—General Requirements for Negotiation

#### 315.103 Converting from sealed bidding to negotiation procedures.

The chief of the contracting office has the authority to make the determination referenced in FAR 15.103.

[51 FR 44294, Dec. 9, 1986]

### Subpart 315.4—Solicitation and Receipt of Proposals and Quotations

#### 315.402 General.

(i) The principal official responsible for acquisition (PORA) shall determine whether to allow the use of facsimile proposals. If the PORA decides to allow the use of facsimile proposals, internal procedures shall be developed, in accordance with the FAR, to ensure uniform processing and control.

[55 FR 13536, Apr. 11, 1990]

#### 315.404 Presolicitation notices and conferences.

(c) *Presolicitation conferences.* (1) The presolicitation conference may only be used when approved by the chief of the contracting office.

#### 315.405 Solicitations for information or planning purposes.

##### 315.405-1 General.

The determination approval required by FAR 15.405-1 that a solicitation for information or planning purposes is appropriate shall be made by the chief of the contracting office.

#### 315.406 Preparing requests for proposals (RFP's) and requests for quotations (RFQ's).

(a) The contracting officer is responsible for preparing the RFP with the assistance of the project officer. The purpose of the RFP is to convey information that prospective offerors need to prepare a proposal. The RFP includes the statement of work and the terms, conditions and provisions that will form the basis for the final definitive contract. It specifies all the information that prospective offerors must furnish to permit a meaningful and equitable evaluation of their offers. The RFP must be clear, complete, accurate, and consistent with the requirements of the acquisition so that it provides all who receive it with the same understanding of the requirements. Much of the information in the RFP is either derived directly from the request for contract or is otherwise furnished by the project officer. Therefore, it is important that the project officer develop a meaningful request for contract and supporting documentation during the initial presolicitation phase which will fully satisfy program needs and objectives when included in the RFP (see Subpart 315.70).

(b) Careful drafting of the RFP is vital to the proper working of the competitive process. The success of the acquisition depends, in large measure, on how well the work to be performed and the basic ground rules under which the competition will be conducted are described in the RFP. Particular effort must be made to develop a comprehensive and accurate statement of work (see 307.105-3 and FAR 35.007) to prevent ambiguities and to avoid misunderstandings which might otherwise surface at later stages of the acquisition.

(c) Care should be taken to avoid conflicting statements in the RFP. Clear

distinctions must be made as to the contents and purpose of the statement of work, the instructions to offerors, and the evaluation criteria. Briefly:

(1) The statement of work must clearly specify the work to be done by the resultant contractor (or, if it is an R & D acquisition, present a clear statement of the requirements, see FAR Part 35);

(2) The general, technical, and business instructions must delineate all the essential information prospective offerors need to know in preparing their proposals (see 315.406-5(b)); and

(3) The evaluation criteria must clearly indicate the technical, management, personnel, and cost or pricing factors which are to be the major considerations in selecting the successful offeror (see 315.406-5(c)).

(d) The RFP must require that proposals be submitted in two parts—a “Technical Proposal” and a “Business Proposal.” Each part is to be separate and complete in itself so that evaluation of one may be accomplished independently of the other.

(e) The technical and business proposal instructions of the RFP must provide all the information deemed essential for proper evaluation of the proposals so that all prospective offerors are aware of all requirements, and so that differences in proposals will reflect each offeror’s individual approach to the clear and unambiguous requirements and criteria stated in the RFP.

(f) The RFP must inform prospective offerors of all evaluation criteria and of the relative importance or weight attached to each criterion. Evaluation criteria must be described sufficiently enough in the RFP to inform prospective offerors of the significant matters which should be addressed in the proposals. Only the evaluation criteria set forth in the RFP shall be used in the evaluation of proposals, and the criteria can only be modified by a formal amendment to the RFP.

(g) Generally, the RFP will provide that the technical proposal not contain any reference to cost. However, resource information, such as data concerning labor hours and categories, materials, subcontracts, travel, computer time, etc., must be included in the

technical proposal so that the offeror’s understanding of the scope of work may be evaluated.

(h) The project officer should be offered the opportunity to review the finalized RFP before it is printed and released.

#### **315.406-1 Uniform contract format.**

The uniform contract format specified in FAR 15.406-1 and Table 15-1 shall be used by all contracting activities of the Department.

[49 FR 13979, Apr. 9, 1984, as amended at 50 FR 23129, May 31, 1985; 50 FR 38004, Sept. 19, 1985]

#### **315.406-2 Part I—The Schedule.**

(a) *Section A, Solicitation/contract form.*

(3) Contracting activities are encouraged to use SF 33 for RFPs. In those instances where a contracting activity believes the SF 33 is not appropriate, a transmittal letter may be used. However, it is essential that the transmittal letter contain the pertinent information that must be brought to the attention of prospective offerors, so the information contained in FAR 15.406-2(a)(3) shall be included in it. The transmittal letter should also contain reference to the solicitation provision “Late Submissions, Modifications, and Withdrawals of Proposals or Quotations” and stress the importance of timeliness. The last paragraph of the transmittal letter should provide the name and complete telephone number of a contract specialist who can provide information concerning the solicitation.

[49 FR 13979, Apr. 9, 1984, as amended 54 FR 24343, June 7, 1989]

#### **315.406-3 Part II—Contract clauses.**

*Section I, Contract clauses.*

This section should contain all the pertinent contract clauses applicable to the acquisition, to include those contained in the general provisions, any additions or modifications to the general provisions, and special contract clauses (see Part 352—Solicitation Provisions and Contract Clauses).